



25 NOV 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

七

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Morris E. Cohen
Levisohn, Lerner, Berger & Langsam
757 Third Avenue, Suite 2400
New York, NY 10017

In re Application of
MURRAY, et al.
U.S. Application No.: 10/485,267
PCT No.: PCT/GB98/02378
Int. Filing Date: 07 August 1998
Priority Date: 08 August 1997
Attorney Docket No.: 836.047
For: USE OF CHOLINESTERASE
INHIBITORS FOR TREATING
ATTENTION DEFICIT DISORDERS

**DECISION ON PETITION
UNDER 37 CFR 1.137(b)**

This decision is in response to applicant's "Petition For Revival of an Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 09 October 2003. Applicant included authorization to charge the \$1330.00 petition fee to Deposit Account No.: 02-2105.

BACKGROUND

On 07 August 1998, applicant filed international application PCT/GB98/02378, which claimed priority of an earlier application filed 08 August 1997. A Demand for international preliminary examination, in which the United States was elected was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 08 February 2000.

On 07 February 2000, applicant filed a transmittal letter for entering the U.S. national stage under 35 U.S.C. 371 accompanied by payment of the U.S. basic national fee.

On 28 April 2000, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors. Applicant was afforded one month to provide the proper response.

On 10 January 2003, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) mailed 28 April 2000 within the time period set therein and that above-identified application was abandoned as to the United States.

On 09 October 2003, applicant filed the present petition to revive pursuant to 37 CFR 1.137(b) accompanied by an executed combined declaration and power of attorney.

DISCUSSION

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (3) a statement that the, "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

With regard to Item (2), applicant included authorization to charge the \$1330.00 petition fee to Deposit Account No.: 02-2105.

As to Item (3), applicant's statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" satisfies Item (3).

With regard to Item (4), the terminal disclaimer is not required since this application was filed after 08 June 1995.

Thus, applicant has satisfied Items (2) - (4) above.

However, with regard to Item (1), the proper response was an executed oath or declaration of the inventors which complies with 37 CFR 1.497(a)-(b). The filed combined declaration and power of attorney is illegible. 37 CFR 1.497(a)(2) requires that the declaration identify the specification to which it is directed. The international application number cannot be discerned from the filed declaration. Similarly, it is impossible to read the typed names, residence, post office address and citizenship information of the inventors listed on the filed declaration. As such, the filed document does not comply with 37 CFR 1.497(a)(3). As the filed declaration is non-compliant, the required reply has not been provided.

For the reasons stated above, the petition for revival cannot be granted at this time and the application remains abandoned.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.137(b) is **DISMISSED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." No additional petition fee is required.

Please direct further correspondence with respect to this matter to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

DAG/Pt

Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (703) 305-0130
Fax: (703) 308-6459